

Article 4: City Employees' Retirement System

Division 12: Retiree Health Benefits

*("Health Insurance" added 5-26-1992 by O-17770 N.S.)
(Retitled to "Retiree Health Benefit" on 2-25-1997 by O-18383 N.S.)
(Retitled to "Post Retirement Health Benefits"
on 3-3-1997 by O-18392 N.S.)
(Retitled to "Retiree Health Benefits
on 11-18-2002 by O-19121 N.S.)*

§24.1201 Eligible Retirees

- (a) Effective August 1, 1997, two separate retiree health benefits are offered: one to Health Eligible Retirees and one to Non Health Eligible Retirees. A Health Eligible Retiree is any General Member, Safety Member or Elected Officer who: (1) was on the active City payroll on or after October 5, 1980, (2) retired on or after October 6, 1980, and (3) is eligible for and is receiving a retirement allowance from the Retirement System. A Non Health Eligible Retiree is any retiree who: (1) retired or terminated City employment as a vested Member before October 6, 1980 and (2) is eligible for and is receiving a retirement allowance from the Retirement System.
- (b) Health Eligible Retirees who retired on or after July 1, 1992 under the "sliding scale" benefit in existence at the time of their retirement shall have their Retiree Health Benefit prospectively adjusted on August 1, 1997, to be the same as that for Health Eligible Retirees who retire on or after August 1, 1997.
- (c) Effective December 31, 1998, a third retiree health benefit is offered to the spouses or dependents under age 21 of a City employee Member killed in the line of duty by: (1) external violence or physical force or (2) as a result of an accident or injury caused by external violence or physical force. For a Safety Member, this benefit will be paid if death benefits are awarded to the Member's spouse or dependents by a final decision under the federal Public Safety Officers Benefit Act. Surviving spouses and dependents eligible for benefits under section 24.1201(c) will receive retiree health benefits. Their health insurance premiums will be paid or reimbursed up to the amount of the annual Flexible Benefits Allotment as defined in the Annual Salary Ordinance adopted by the City Council. No benefits will be provided under this subsection if : (1) the death or injury resulting in death was caused by the Member's intentional misconduct or intent to cause his or her own death or injury; (2) the Member was voluntarily intoxicated at the time of his or her

death; or (3) the Member was performing his or her duties in a grossly negligent manner at the time of death or injury. No benefit under this subsection will be paid to any individual whose actions were a substantial contributing factor to the Member's death or catastrophic injury.

(Amended 11-18-2002 by O-19121 N.S.)

§24.1202 Retiree Health Benefits Defined

- (a) Beginning in fiscal year 2002, each Non Health Eligible Retiree will be paid or reimbursed up to \$1,200 per year for health insurance expenses.
- (b) Health Eligible Retirees are entitled to participate in and obtain health coverage under any currently available City-sponsored health insurance plan or any other health insurance plan of their choice. The Health Eligible Retirees will be paid or reimbursed their premiums subject to the limitations set forth in this Division.
- (c) For fiscal year 2003, the Health Eligible Retiree will be paid or reimbursed for health insurance premiums up to the cost of the Medicare-eligible or Non-Medicare-eligible retiree premium for the City-sponsored Preferred Provider Organization (PPO) plan available to Health Eligible Retirees, regardless of which health insurance plan the Health Eligible Retiree selects.
- (d) After fiscal year 2003, the maximum payment or reimbursement level for Health Eligible Retirees will be adjusted annually based upon the projected increase for National Health Expenditures by the Centers for Medicare and Medicaid Services, Office of the Actuary, for the full-year period ending January 1 before each plan year. No adjustment may exceed 10% for any plan year. The City will notify the Retirement System in writing of the amount of the adjustment at least 30 days before the beginning of each plan year.
- (e) A Health Eligible Retiree will not be paid or reimbursed any more than the actual premium cost he or she incurs.
- (f) A Health Eligible Retiree timely enrolled in Medicare is also entitled to reimbursement of the cost of the part B supplemental medical expense premium.
- (g) Effective December 31, 1998, the surviving spouse of a City employee Member killed in the line of duty, as described in Section 24.1201 subsection (c), is entitled to post retirement health benefits as a Health Eligible Retiree, in the amount of the annual Flexible Benefits Allotment, for the payment of health

premiums only, as defined in the Annual Salary Ordinance adopted by the City Council. The deceased employee's minor dependent children will be covered by the surviving spouse's insurance. If there is no surviving spouse, the minor dependent children will receive health insurance coverage until each reaches the age of 21. The surviving spouse may not use the benefits provided by this section to pay for health insurance for anyone who was not a dependent of the deceased employee.

(Retitled from "Post Retirement Health Benefits Defined" and amended 11-18-2002 by O-19121 N.S.)

§24.1203 401(h) Fund Established

- (a) All retiree health benefit payments by the 401(h) Fund will comply with all applicable federal laws, including section 401(h) of the Internal Revenue Code ("Code"). If there is a conflict between this Division and section 401(h) of the Code or regulations issued under that section, the Code and regulations govern.
- (b) 401(h) Fund – Compliance with Applicable Provisions of the Code
 - (1) All health benefits under this Division will be paid solely from the 401(h) Fund until the 401(h) Fund assets are exhausted.
 - (2) No health benefits provided under the 401(h) Fund may discriminate in favor of highly compensated employees.
 - (3) The 401(h) Fund is a separate account solely for providing retiree health benefits. It is established and maintained by the Board to reflect the amounts the City contributes to pay retiree health benefits. The 401(h) Fund exists for record-keeping purposes only. Amounts credited to the 401(h) Fund may be invested with other Retirement System funds set aside for retirement purposes, without identifying which investments are allocated to each account. But, earnings on each account must be allocated in a reasonable manner.
 - (4) The City contributes to the 401(h) Fund solely to pay health insurance premiums under this Division. Contributions will be reasonable, ascertainable, necessary and appropriate. Contributions will not exceed the amounts that would violate the Code requirement that health benefits be subordinate to the retirement benefits.
 - (5) When the City makes a contribution to the 401(h) Fund, it must

designate in writing to the Board the portion of the contribution to be allocated to the 401(h) Fund for health benefits.

- (6) No part of the 401(h) Fund may be used for any purpose other than paying health benefits under this Division. But, 401(h) Fund assets may be used to pay for necessary and appropriate administrative expenses related to retiree health benefits.
 - (7) Any amounts contributed to the 401(h) Fund that remain in the 401(h) Fund after all liabilities for retiree health benefits are satisfied, including benefits payable to existing Members in the future, will be returned to the City. The City will provide benefits to Health Eligible and Non Health Eligible Retirees equal to the returned amount.
 - (8) Section 24.1203 does not require separate accounts for key employees because no member of the Retirement System is a key employee under the Code.
 - (9) Assets attributable to any forfeitures of benefits payable by the 401(h) Fund will be used to reduce the City's contributions for retiree health benefits.
- (c) The Board may adopt rules and regulations as necessary or appropriate to carry out the requirements of this Division.
(Amended 11-18-2002 by O-19121 N.S.)

§24.1204 Funding of Retiree Health Benefits

The retiree health benefits described in this Division will be paid from the following sources of funds in descending order of availability:

- (a) the 401(h) Fund, until exhausted, and
- (b) the City, directly, from any source available to it.
(Retitled from "Funding" and amended 11-18-2002 by O-19121 N.S.)